IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

CRP.No. 882 of 2007

(AGAINST THE DISMISSAL OF CLAIM IN EA NO. 71/07 IN EP NO. 41/05 IN R.C.O.P NO. 22/01 ON THE FILE OF MUNSIFF – MAGISTRATE COURT, S. PARAVOOR)

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REVN. PETITIONER: CLAIMANT

SUMA.G.NAIR,D/O. GOPALAKRISHNA PILLAI
SUMA BUILDINGS, PARAVOOR, NOW RESIDING AT
FLAT NO.206,ULSOOR, BANGALORE-8.

BY ADV. SRI.B.S.SURESH (CHIRAKKARA)

RESPONDENTS: DECREE HOLDERS

1. **REMESH GOPAL,S/O. NASEEMA**
   SUNIL NILAYAM,KURUMANDAL CHERRY
   PARAVOOR, KOLLAM.

2. **RAJANI GOPAL,D/O. NASEEMA,DO...DO..**

3. **SREEEDHARAN NAIR,S/O.NANU PILLAI (RESPONDENT/JUDGMENT DEBTOR)**
   THOTTUVATTTU VEDU, KURUMANDAL,PARAVUR.

4. **SURESH,S/O. GOPALAKRISHNA PILLAI (RESPONDENT/ADDL. CLAIMANTS)**
   NOW EMPLOYED AT PUB WATER WORKS SEUDAS POST,
   JOHORE,MALAYSIA WEST RESIDING AT 8-9,
   BUKITYAMA, 6TH MILE ROAD,MALASYA-10.

5. **SUNDARESH GOPALAKRISHNA PILLAI (RESPONDENT/ADDL. CLAIMANTS)**
   8-9-BUKITYAMA, 6TH MILE ROAD,MALASYA-10.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.882 OF 2007

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Dated this the 8th day of October 2007

ORDER

This revision petition is preferred against the order of dismissal in E.A.No.71 of 2007 in E.P.No.41 of 2005 in R.C.O.P.No.22 of 2001 of the Munsiff-Magistrate Court, Paravur. This appears to be a strange claim application because it is one of the alleged owners, who want to protect the tenant from eviction, which is not the normal course of conduct. If this is a claim application, then naturally it will be governed by the provisions of Order 21 Rule 97 of 99 C.P.C. Under Order 21 Rule 101 C.P.C., all questions relating to right, title or interest in the property arising between the parties to a proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such question. Ordinarily an appeal will lie. So the remedy for the petitioner is to file an appeal.

Without expressing anything on the merits of the case and with liberty

to the petitioner to approach the appropriate forum in accordance with law, this writ petition is dismissed.

M.N.KRISHNAN, JUDGE

Cdp/-